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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

871.0103.U1(US)

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10-3-06

Signature

Ann Okrentowich

Typed or printed
name

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Application Number

10/036,304

Filed

December 28, 2001

First Named Inventor

Tara A. Burnhouse

Art Unit

2682

Examiner

Milord, M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 31,686

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

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10/3/06

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/036,304
Applicant(s): Burnhouse et al.
Filed: 12/28/2001
Art Unit: 2682
Examiner: Milord, Marceau
Title: Data Transfer Rate Display Selection
Attorney Docket No.: 871.0103.U1 (US)
Customer No.: 29,683

Confirmation No.: 2753

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Arguments Accompanying Pre-Appeal Brief Request For Review

Sir:

Claims 1-2, 4-5 and 7-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walsh (US 6,144,848) in view of Ishikura et al. (US 6,999,791 B1) in view of Perholtz et al. (US 5,732,212).

Independent claim 1 claims a system for displaying data transfer rates on a display comprising:

a system for displaying the transfer rates in an alphanumeric mode or an alternative graphics mode; and

a system for switching between displaying the transfer rates in the alphanumeric mode and the graphics mode.

The examiner has admitted that Walsh et al. does not disclose displaying data transfer rates and a system for switching between displaying the transfer rates in the alphanumeric mode and the graphics mode. However, the examiner then states that it would be obvious to apply the techniques of Perholtz to a modified system of Ishikura and Walsh to allow a user the flexibility to view information displayed on a video terminal. The examiner merely points to

Ishikura for a teaching that control data transfer rates can be changed between a high-speed rate and a low-speed rate. The examiner merely points to Perholtz for a teaching of a video raster signal capable of operating with any number of different graphics modes and display lines.

The USPTO is directed to Figs. 3A and 3B of applicants' patent application. Fig. 3A shows an example of a **graphics mode** of displaying a **data transfer rate**. Figs. 3B shows an example of an **alphanumeric mode** of displaying a **data transfer rate**. Fig. 5 shows an example of how a user can use the menu of the device to select or switch between showing the transfer rate as either the alphanumeric mode or the graphics mode. A data transfer rate is the rate or speed at which data is transferred. For example, a modem is used to transfer data between two devices. The rate of transfer of the data is a data transfer rate, such as shown in Fig. 3B which shows data transfer rates in an alphanumeric mode (145 kbps and 28 kbps; (kbps=kilobits-per-second)). The cited art, alone or in combination, is not remotely close to applicants' claimed invention.

Ishikura et al. teaches how to show transfer information (reception quality), but not on the device. As noted on column 3, lines 48-52, information representing the reception quality (based upon signal strength) is displayed on the control unit; not on the hand held phone. And there is no indication that the information representing the reception quality includes displaying information regarding a data transfer rate.

Perholtz et al. is about how to set up a connection or switching between connections; NOT about showing data transfer rates. Perholtz et al discloses a video raster signal capable of operating with any number of different graphics modes and display lines.

There appears to be no suggestion to combine the teachings of Perholtz et al. with Walsh et al. and Ishikura et al. Even if, for the sake of argument, there is a suggestion to combine the references, this still does not disclose or suggest applicants' invention as claimed in claim 1. None of the cited references disclose or suggest displaying a data transfer rate. None of the cited references disclose or suggest displaying a data transfer rate in an alphanumeric mode or an alternative graphics mode. None of the cited references disclose or suggest a system

for switching between displaying a data transfer rate in the alphanumeric mode and the graphics mode. Even if it is obvious to combine the references, there still is no disclosure or suggestion of a system for displaying a data transfer rates in an alphanumeric mode or an alternative graphics mode; and a system for switching between displaying the transfer rates in the alphanumeric mode and the graphics mode. Therefore, claim 1 is patentable and should be allowed.

Independent claim 8 claims a mobile radio communication device comprising means for displaying a data transfer rate of data with a transceiver on a display in an alphanumeric format. None of the three cited references, alone or in combination, disclose or suggest this.

Independent claim 11 claims a mobile radio communication device comprising a controller adapted to display a data transfer rate of data by a transceiver on a display; and a system for inactivating display of the data transfer rate on the display while the transceiver is transmitting or receiving the data. None of the three cited references, alone or in combination, disclose or suggest this. The examiner has stated that Walsh et al. discloses a controller adapted to display on a display a data transfer of data by the received. However, Walsh does not disclose a controller adapted to display a data transfer rate of data by a transceiver on a display. Walsh appears to be silent regarding how, or even if, a data transfer rate or speed is displayed. Please note, claim 11 is in regard to display of a data transfer rate; not merely a data transfer. For example, Fig. 3A of the present patent application shows data transfer rates in a graphics mode (the right and left arrows being full or not) and Fig. 3B shows data transfer rates in an alphanumeric mode (145 kbps and 28 kbps; (kbps=kilobits-per-second)).

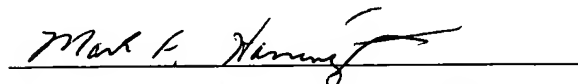
Independent claim 17 claims a method of displaying a data transfer rate on a display comprising selecting, by a user, a data transfer rate display mode from a plurality of data transfer rate display modes; and displaying the data transfer rate on the display based upon the selected data transfer rate display mode. There is nothing remotely similar disclosed in the cited references. The examiner has stated that Walsh discloses a method of displaying a data transfer on a display comprising selecting, by a user, a data transfer display mode from a plurality of data transfer display modes. This is incorrect. Nowhere in Walsh is there a

disclosure of a method of displaying a data transfer on a display comprising selecting, by a user, a data transfer display mode from a plurality of data transfer display modes. Perholtz et al. and Ishikura et al. do not disclose or suggest displaying a data transfer rate on a display.

Independent claim 21 claims a method of changing displaying of a data transfer rate on a display of a portable communication device comprising selecting, by a user, to turn a displaying feature of the data transfer rate ON or OFF; and during data transfer by the portable communication device, a controller of the portable communication device, connected to the display, preventing the display from displaying the data transfer rate when the user has selected to turn the displaying feature OFF. There is nothing remotely similar disclosed in the cited references. The examiner has stated that Walsh et al. discloses a method of changing displaying of a data transfer on a display of a portable communications device comprising selecting, by a user, to turn a displaying feature of the data transfer ON or OFF. This is not correct. There is no such disclosure in Walsh et al. The combined features of claim 21 are not disclosed or suggested in the cited references.

The addition of Ishikura et al. and Perholtz et al. in the last office action are no better references than the references used in the prior four office actions. Almost five years have past since this application has been filed. No amendments have been made to the claims during prosecution, nor are amendments needed in view of the cited art. A speedy decision to accelerate allowance is respectfully requested. For all of the foregoing reasons, it is respectfully submitted that all of the claims present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested.

Respectfully submitted,



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10/3/06

Date